§1332. Diversity of citizenship; amount in controversy; costs.

(a) The district court shall have original jurisdiction of all civil actions wherethe matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between -

(1) citizens of different States; * * *

1441. Actions removable generally.

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in na State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and

division embracing the place where such action is pending.

§1447. Procedure after removal generally.

(c) If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case, and may order the payment of just costs. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case.

§1651. Writs.

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions

and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction.

APPENDIX B
(page 1)

United States District Court

for the Northern District of California

ALEXANDER P. EAGLE, individually and on behalf of all others similarly situated, Plaintiff, vs. AMERICAN TELEPHONE & TELEGRAPH COMPANY, a corporation, Defendant.	No. C-81-4078-WWS ORDER DENYING MOTION TO REMAND

Plaintiff's motion to remand came on for hearing on November 20, 1981. The Court, having reviewed the memoranda and supporting exhibits and having heard arguments of counsel, finds that this lawsuit was properly removed and that this Court has jurisdiction; therefore,

IT IS ORDERED that plaintiff's motion to remand is denied.

Dated: 11/20/81.

William W Schwarzer
United States District Judge

ORDER DENYING MOTION TO REMAND

ORIGINAL
FILED

JAN 25 1982

WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER F. EAGLE, individually and on behalf of all others similarly situated,

Plaintiff,

v.

AMERICAN TELEPHONE & TELEGRAPH COMPANY, a corporation,

Defendant.

NO. C-81-4078-WWS

ORDER

Federal jurisdiction is determined with reference to the pleadings as they stood at the time of filing of the petition for removal. Pullman Co. v. Jenkins, 305 U.S. 534, 537 (1939). Subsequent amendment of a pleading can have no effect on jurisdiction once it has attached. St. Paul Indemnity Co. v. Cab Co., 303 U.S. 283 (1938). Accordingly the second motion to remand must be denied.

IT IS SO ORDERED.

DATED: January 25, 1982

WILLIAM W SCHWARZER
United States District Judge

ORIGINAL
FILED
FEB 11 1982
WILLIAM L. WHITTAKER
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ALEXANDER F. EAGLE, individually and on behalf of all others similarly situated, Plaintiff, v. AMERICAN TELEPHONE & TELEGRAPH COMPANY, a corporation, Defendant.	NO. C-81-4073-WWS ORDER

Good cause appearing, the motion to amend order and for an order permitting an appeal is denied.

The action is set for a status conference on Friday, March 19, 1982, at 9 a.m. The parties should comply with L.R. 235-3 and should be prepared to advise the Court with respect to contemplated further proceedings, and specifically the impact if any of the proposed settlement in United States v. American Telephone & Telegraph Co.

IT IS SO ORDERED.

DATED: February 12, 1982

WILLIAM W SCHWARZER
United States District Judge

APPENDIX B
(page 4)

FILED

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEXANDER F. EAGLE, Petitioner, vs. UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, Respondent, and AMERICAN TELEPHONE & TELEGRAPH COMPANY, a corporation, Real Party in Interest.	No. 82-7218 DC# 785006 WWS Northern California ORDER

Before: FLETCHER and NORRIS, Circuit Judges

The petition for writ of mandamus is denied. Under the compulsion of Ex Parte Harding, 219 U.S. 363 (1911), we have no authority to issue the writ in these circumstances. This order is without prejudice to petitioners' right to move the district court for reconsideration of its order in light of Goldberg v. CPC International, Inc., 678 F.2d 1365 (9th Cir. 1982).

NoCal 8/9/82